

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

CARLTON R. MUSICK, JR.,

Petitioner,

v.

CIVIL ACTION NO. 5:03-0441
CRIMINAL NO. 5:02-00177-01

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

By Standing Order entered on July 21, 2004, this matter was referred to United States Magistrate Judge R. Clarke VanDervort. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge VanDervort to submit proposed findings and recommendation concerning the disposition of this matter.

Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation on March 10, 2006, and proposed that this court (1) confirm and accept the Magistrate Judge's findings contained within his Proposed Findings and Recommendation, (2) dismiss petitioner's Application under 28 U.S.C. § 2255 (Doc. No. 29), and (3) direct the Clerk to remove this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Proposed Findings and Recommendation. The failure of any party to file

objections within the appropriate time frame constitutes a waiver of such party's right to a de novo review by this court.

Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985). No objections were filed in this case.

Having reviewed the Findings and Recommendation filed by Magistrate Judge Stanley, the court (1) CONFIRMS and ACCEPTS the factual and legal analysis within the magistrate judge's Proposed Findings and Recommendation, and (2) DISMISSES petitioner's § 2255 Application (Doc. No. 29).

The Clerk is directed to remove this action from the active docket of this court and to forward a certified copy of this Memorandum Opinion and Order to all counsel of record and the plaintiff, pro se.

IT IS SO ORDERED this 28th day of March, 2006.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge